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ABSTRACT

This document contains chapter 4 (7 articles) of a collection of 35 articles primarily from American Association for Counseling and Development (AACD) publications on the most important legal and ethical topics about which all school counselors need to be informed. "School Counselors and the Reporting of Child Abuse: A Survey of State Laws and Practices" (Lanthan D. Camblin, Jr. and H. Thompson Prout) discusses the legal and ethical issues surrounding school counselors' reports of suspected child abuse. "Legal Issues in Child Abuse: Questions and Answers for Counselors" (David N. Sandberg, Susan K. Crabbs, and Michael A. Crabbs) addresses specific legal questions that school counselors have asked regarding the reporting of suspected child abuse. "Child Abuse Hysteria and the Elementary School Counselor" (Lawrence D. Spiegel) provides the perspective of a parent who has been accused of child abuse. In responding to Spiegel's article, "Overstating the Issue: A Reaction to Spiegel" (Richard D. Krugman) delineates possible reasons for unfounded reports and questions the data as presented. "Counselors Need To Be Knowledgeable and Sensitive: A Reaction to Spiegel" (Patricia A. Ferris) reasserts the need for a balanced perspective and "Shared Responsibility for Reporting Child Abuse Cases: A Reaction to Spiegel" (Janet Howell-Nigrelli) suggests a team approach to issues of child abuse reporting and prevention. "Recent Research on Child Abuse: A Brief Review" (Edwin R. Gerler, Jr.) concisely summarizes recent research findings pertaining to child abuse.

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THE SCHOOL COUNSELOR AND CHILD ABUSE

In most states, school counselors are obligated to report suspected cases of child abuse. Camblin and Prout (1983) discuss the legal and ethical issues surrounding such reports, provide a summary listing of the basic provisions of each state law, and make recommendations for counselors. The article by Sandberg, Crabbs, and Crabbs (1988) addresses many of the specific legal questions that school counselors have asked regarding the reporting of suspected child abuse. Spiegel (1988) provides the perspective of a parent who has been accused of child abuse. He cautions against the loss of objectivity and provides specific recommendations for counselors. In responding to Spiegel's article, Krugman (1988) delineates possible reasons for unfounded reports and questions the data as presented. Ferris (1988) reasserts the need for a balanced perspective and Howell-Nigrelli (1988) suggests a team approach to issues of child abuse reporting and prevention. Finally, Gerler (1988) concisely summarizes recent research findings pertaining to child abuse.

School Counselors and the Reporting of Child Abuse: A Survey of State Laws and Practices

Lanthan D. Camblin, Jr. and H. Thompson Prout

A distraught 13-year-old girl sought out a school counselor and asked for help. She told the counselor that she had been raped several times by her stepfather. It was his habit to awaken her each morning, she explained, but two weeks ago he suddenly got into bed with her and sexually assaulted her. It had happened twice more, most recently that morning and she was frightened. The counselor called the welfare department at once, but was met with indifference. . . . The counselor pressed for action, and reluctantly the agency agreed to make a home visit "to see whether (the child) is enjoying this." (Broadhurst, 1978, p. 22)

Alan was pummeled for perhaps four hours before he died, at times with fists, at times with a wooden club wrapped with gauze and labeled "The Big Stick." He was five years old. Police found his frail body on the living room floor, his blond hair red with blood, his hand bruised from trying to deflect the blows. . . . On the day of the kindergarten class photograph, Alan came to school with his face so bruised he couldn't be in the picture. . . . (He was described as) "a sweet kid" who got lost in the bureaucracy, falling victim to a tragic series of reports never forwarded, questions never asked, evidence never given. (Cincinnati Enquirer, 1981, p. A-3)

These case profiles are not dissimilar to those stories reported daily by the media and to those situations that counselors will encounter on an all-too-frequent basis in their schools. In recent years, the

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problem of child abuse and neglect has received considerable attention, resulting in a general expectation of greater vigilance and in more exacting laws pertaining to this social issue.

Child abuse may include varying aspects of physical abuse, sexual abuse, verbal abuse, general neglect, emotional neglect, abandonment, and failure to thrive because of inadequate supervision. The problem could be considered epidemic, with estimates of suspected abuse ranging from half a million (Antler, 1978; Gelles, 1975; Light, 1974) to a million (Solomon, 1979) cases annually. The American Humane Society has indicated that up to two-thirds of the cases of abuse/neglect involved school-age children (Broadhurst, 1978).

All states and the District of Columbia have enacted laws that deal with child abuse. These laws establish regulations for reporting and following up on suspected cases of child abuse (Moore & McKee, 1979). School personnel, specifically counselors, are among those required by many states to report suspected cases. The laws mandate that certain individuals must report suspected cases to a public agency—usually county or state welfare. Many states have "hot-line" numbers where the information is relayed to the appropriate local agency.

A number of authors have written specifically on the role of the counselor in dealing with child abuse. Griggs and Gale (1977) have written on the need for counselors to be aware of legal definitions of child abuse, to be reporting laws within their particular jurisdiction, to be knowledgeable in procedures of recognizing and identifying abuse, and to be developing skills in dealing with the consequences of child abuse. The counselor may be the first professional helper to come in contact with the abused child. Moore and McKee (1979) offer specific suggestions for counselors who are faced with possible child abuse. Miller and Miller (1979) offer guidelines for identifying potential child abuse.

It is inevitable that front-line pupil personnel specialists will have to deal with child abuse in their work. Those professionals must be aware of identification and intervention strategies, as well as the legal issues involved in child abuse. Swoba, Elwork, Sales, and Levine (1978), in a survey of mental health practitioners (non-school), found that a significant number were unaware of their right to privileged communication under child abuse laws as well as the legal mandate to report suspected cases. While there are no similar data for pupil personnel workers, it is not unlikely that a similar situation may exist among school-based professionals.

The purpose of this survey was to collect state-by-state information on reporting laws as they relate to school personnel, to obtain data on reporting practices by school personnel, and to analyze school-oriented programs of state child abuse offices.

Method

The study involved two phases. Initially, a questionnaire was mailed to the office or department in each state and the District of Columbia that is responsible for enforcement, development, and management of child abuse programs. The questionnaire asked informants to indicate:

1. whether the state required mandatory reporting by certain individuals/professionals who have reason to believe a child has been abused;
2. whether the mandatory reporting laws applied to physical abuse, emotional neglect/mental injury, general maltreatment/failure to provide, sexual abuse, abandonment and/or any other specified types of abuse;
3. which school personnel were required to report cases of suspected child abuse, choosing from school administrators, teachers, school counselors, consulting psychologists, nursery school personnel, school psychologists, speech therapists, school social workers, visiting/itinerant/homebound teachers, state-operated hospital/institution/facility personnel and/or any other designated personnel;
4. whether reporting requirements applied to both public and private school personnel;
5. whether the required reporters, when making reports of suspected child abuse, were immune from any civil or criminal liability provided that such persons acted in good faith;
6. what percentage (official statistics or estimate) of the total reports of child abuse originate with school personnel; and
7. a rating of school personnel's compliance with the child abuse mandatory reporting laws by estimating the extent to which school personnel tend to report "most appropriate cases," or to "not report cases in almost all circumstances."

In the second phase of the study, states were rank ordered on the basis of the percentage of reports originating from school personnel. Child abuse officials in five states with a relatively high percentage

of school-originated reports and four with a relatively low percentage of school-originated reports were contacted by telephone and interviewed with regard to specific programs or materials directed toward school personnel. Questions were structured to obtain information about (a) any special materials on child abuse routinely sent to school personnel, (b) any specific programs, conferences, workshops or inservice training on child abuse for school personnel, and (c) whether any office of child abuse personnel had specific duties to work with schools.

Results

Responses from all 50 states and the District of Columbia were received. An analysis of responses indicated consensus among states in three areas: (1) all 51 respondents indicated they have a mandatory reporting law; (2) all but 2 of the respondents indicated that their laws applied to both public and private schools (Louisiana's law does not specify, while Vermont's law specifies public schools only, but a proposed law will specify both); and (3) all the respondents indicated that the law provides immunity from civil or criminal liability for those reporting in good faith.

Table I presents state-by-state information with regard to types of abuse reportable by law, school personnel required to report, percentage of school-originated reports, and the estimated degree of compliance with the law.

A further analysis found that 39 of the respondents (76%) require the reporting of all types of child abuse, while 12 (24%) limit their definition by excluding one or more of the types of abuse. There are 9 states that do not require the reporting of emotional neglect; 4 exclude abandonment and 3 exclude general maltreatment. All states require reporting on physical abuse and sexual abuse. There are 4 states that add "exploitation"; 1 state adds "mental suffering" and another adds "at risk for abuse."

All states require reporting by school personnel, and 34 respondents indicated that all school personnel are required to report suspected cases of child abuse. The counselor is a mandatory reporter in 46 of the respondents. In the 5 states not specifically including the counselor as a mandatory reporter, 2 have statutes that are somewhat ambiguous and might include the counselor. Among the various disciplines, the speech therapist is most often not identified as a mandatory reporter, with 24% ($N = 12$) of the states excluding them.

Table 1

STATE REPORTING REQUIREMENTS, PERCENTAGE OF SCHOOL ORIGINATED REPORTS, AND RATED REPORTING COMPLIANCE BY SCHOOL PERSONNEL

<i>Reporting state</i>	<i>Types of abuse law requires reported</i>	<i>School personnel required to report</i>	<i>% of reports originating with school personnel</i>	<i>Rated degree of compliance with reporting abuse of school personnel</i>
Alabama	All but abandonment	All but speech therapists	5-15 (est.)	Report only obvious
Alaska	All but emotional neglect	Only teachers, school nurses, and hospital personnel	None indicated	Not to report
Arizona	Physical abuse and sexual abuse	All but nursery, itinerant, and hospital personnel	12 (of substantiated) 15 (with preschool) 20 and 27 (with unsubstantiated)	Report only obvious
Arkansas	All	All	5-15 (est.)	Report only obvious
California	Physical abuse, mental suffering, sexual abuse	All but speech therapist and hospital personnel	9.3	Report only obvious
Colorado	All (emotional neglect implied)	All	22	Report most
Connecticut	All but emotional neglect and "at risk of abuse"	All but speech therapist	5-15 (est.)	Report only obvious

Delaware	All and "exploitation"	All	12.6	Report only obvious
D.C.	All	All	5-15 (est.)	Report only obvious
Florida	All	All	9.7 (birth to 18 yrs.) 15 (age 5 and older)	Report only obvious
Georgia	All	Only school administration (new law proposed)	15-30 (est.)	Report most
Hawaii	All	All	5-15 (est.)	Report most
Idaho	All but emotional neglect	All	5-15 (est.)	Report most
Illinois	All	All	7.3	Report only obvious
Indiana	All	All	15-30 (est.)	Report most
Iowa	All but emotional neglect	All	15-30 (est.)	Report most
Kansas	All	All	5-15 (est.)	Report only obvious
Kentucky	All	All but hospital personnel	0-5 (est.)	Report only obvious
Louisiana	All	Only teachers, school nurses, social workers, and any person responsible for care of child	5-15 (est.)	Report only obvious
Maine	All	All	5-15 (est.)	Report only obvious

Continued

Table 1 (continued)

<i>Reporting state</i>	<i>Types of abuse law requires reported</i>	<i>School personnel required to report</i>	<i>% of reports originating with school personnel</i>	<i>Rated degree of compliance with reporting abuse of school personnel</i>
Maryland	All	All	35	Report most
Massachusetts	All but general maltreatment	All	15-30 (est.)	Report only obvious
Michigan	All	All but psychologist, speech therapist, consulting psychologist and teachers	12	Report only obvious
Minnesota	All	All but administration and consulting psychologist	15-30 (est.)	Report only obvious
Mississippi	All but abandonment	Only principal and teacher	15-30 (est.)	Report only obvious
Missouri	All	Law states teacher, principal, or other official—interpreted to mean all	15-30 (est.)	Report only obvious
Montana	All	All but speech therapist	45-60 (est.)	Report only obvious
Nebraska	All	All	10	Report only obvious

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Nevada	All	All but speech therapist	14	Report most
New Hampshire	All	All	19	Report only obvious
New Jersey	All	All	12-4	Report only obvious
New Mexico	All	All	10—Teachers (2)	Report only obvious
New York	All	All	11	Unknown
North Carolina	All	All	5-15 (est.)	Report only obvious
North Dakota	All	All but speech therapist and counselor	5-15 (est.)	Report only obvious
Ohio	All	All but hospital personnel	5-15 (est.)	Report only obvious
Oklahoma	All	All	5-15 (est.)	Report most
Oregon	All but emotional neglect, abandonment	All	15-30 (est.)	Report most
Pennsylvania	All	All	15-20	Report only obvious
Rhode Island	All	All	0-5 (est.)	Report most
South Carolina	All	All	22	Report most
South Dakota	All	All	45-60 (est.)	Report only obvious
Tennessee	All	All	5-15 (est.)	Report only obvious
Texas	All	All	5-15 (est.)	Report only obvious
Utah	All and exploitation	All	5-15 (est.)	Report only obvious

Continued

Table 1 (continued)

<i>Reporting state</i>	<i>Types of abuse law requires reported</i>	<i>School personnel required to report</i>	<i>% of reports originating with school personnel</i>	<i>Rated degree of compliance with reporting abuse of school personnel</i>
Vermont	All but emotional neglect	Only school nurses (proposed to include all)	10	Report only obvious
Virginia	All	All	5-15 (est.)	Report only most
Washington	All and exploitation	All but speech therapist	15-30 (est.)	Report most
West Virginia	All	All	5-15 (est.)	Report only obvious
Wisconsin	All but emotional neglect	All	20	Report most (except for sexual abuse)
Wyoming	All	All	5-15 (est.)	Report most

Table 2, presents the frequency, percentages, and mean for school-originated reports of child abuse. The mean (15.5%) was computed by using actual statistics provided by the state or using the midpoint of the estimated range.

Only 1 state indicated that school personnel were consistently unwilling to report cases of child abuse. However, 65% ($N = 33$) of the states indicated that school personnel tend to report only obvious cases of abuse, while 31% ($N = 16$) felt school personnel were reporting most of the appropriate suspected cases.

The second phase of the study, a follow-up comparison of states with a "high" percentage of school-originated reports versus those with "low" percentages, yielded an unsurprising result. The offices responsible for child abuse programs in the "high" states had active programs reaching out to the schools, providing materials, and encouraging liaison relationships. The "low" states tended to have more passive school programs, responding only when requests for information, consultation, etc., were directed to their offices. Among the activities in the active "high" states were:

1. regular newsletters from the state office sent to schools;
2. general workshops and conferences on child abuse that are open to school personnel, among other professionals (some states also go out to local school districts and provide specific workshops/in-service training for school personnel);
3. child abuse publications and lists of available publications provided to schools (some states provide publications specifically developed for school personnel);

Table 2
REPORTED FREQUENCY OF SCHOOL ORIGINATED REPORTS

Range	N	% Age
0-5%	2	4
5-15%	30	59
15-30%	15	29
30-45%	1	2
45-60%	2	4
Above 60%	0	0
No report	1	2
$\bar{X} = 15.5\%$	51	100

4. formation of county child abuse teams that include school personnel;
5. audiovisual programs on child abuse made available to the schools; and
6. a state child abuse specialist who has part of his or her job role specifically designated as school liaison activities.

Discussion

The implications of this survey are clear for the counselor as well as for other education-related professionals. School personnel should be aware of their particular state laws on child abuse, not only to be more effective practitioners, but also to protect themselves legally. On a general level, the laws are clear on mandatory reporting of a variety of types of abuse, and in all cases some school (public and private) personnel are mandated to report abuse with the guarantee of "in good faith" reporting.

Failure to follow established guidelines for reporting suspected cases of child abuse would most likely result in a misdemeanor charge. A sampling of states indicates conviction on these charges would take the form of a fine (under \$500) and/or a brief imprisonment (up to 6 months). State employees may be subject to some additional disciplinary action.

From the view of state officials responsible for child abuse programs, school personnel do not appear to be reporting suspected abuse cases with a high enough frequency, although few officials indicated a total lack of compliance. Most state officials indicate that only the "most obvious" cases are reported by educators. Given that schools should account for half or more of abuse referrals, it is surprising that only an estimated 8% to 17% of suspected child abuse cases originate from the schools (Broadhurst, 1978). These figures are consistent with this survey, which indicated a national average of slightly over 15%. This appears to be a function of limited awareness and reluctance on the part of school personnel. In addition, it suggests that state child abuse programs have failed to reach out and educate school personnel on child abuse. The present survey yields a number of implications and recommendations for the pupil personnel professional:

1. Professionals should obtain and become familiar with the child abuse laws in their particular states.

2. Schools should designate a staff member to be a resource and coordinator with regard to suspected child abuse. The school counselor is best qualified for this task. Child abuse is not the type of problem that can be put on the "back burner" or referral list. Immediate intervention is important. The "coordinator" must be versed in legal issues and requirements and have knowledge of procedures in identifying and recognizing possible child abuse.
3. Counselors can function on three levels with the problem of child abuse. The first level involves direct work with the child. This includes conducting interviews with the child to assess the problem as well as to intervene, when appropriate, to provide support from the school for the child. The second level is work with teachers. This may involve developing inservice programs, acting as a resource with regard to the law, helping to assist teachers in identifying child abuse, and providing classroom consultation with regard to helping the abused child. Counselors may also help teachers with the difficult emotional struggle that often accompanies coming to the decision whether to report a case. The third level involves counselors' roles as liaison with community agencies that deal with child abuse. At each level, counselors must be aware of the delineation and appropriate school responses to child abuse and what more appropriately lies in the domain of the public agencies.
4. Counselors and other specialists should encourage the reporting of the more "borderline" or less obvious cases. The purpose of the reporting is not to prosecute or charge; rather, the reporting allows an investigation to ascertain whether a child has been abused or is at risk for further abuse.
5. Counselors should become active with local groups or agencies that deal with child abuse. Where state or local agencies do not seem to be reaching out to the schools, school-based professionals should initiate and encourage these contacts. Counselors could assist in initiating training programs for various professional groups (Volpe, 1981).
6. On a more general theme, it would be interesting to see the Swoba et al. (1978) study on the awareness of child abuse laws among mental health practitioners replicated with educators, particularly pupil personnel specialists. Practitioners may want to conduct "mini" studies of awareness levels in their own settings.

References

- Antler, S. Child abuse: An emerging social priority. *Social Work*, 1978, January, 58-60.
- Broadhurst, D. What schools are doing about child abuse and neglect. *Children Today*, 1978, January-February, 22-36.
- Cincinnati Enquirer. Everyone did his job, but Alan is dead. *Cincinnati Enquirer*, 1981, January 29, A-3.
- Gelles, R. The social construction of child abuse. *American Journal of Orthopsychiatry*, 1976, 46, 580-590.
- Griggs, S.A., & Gale, P. The abused child: Focus for the counselor. *Elementary School Guidance and Counseling*, 1977, 11, 187-194.
- Light, R. Abused and neglected children in America: A study of alternative policies. *Harvard Educational Review*, 1974, 43, 556-598.
- Miller, K.A., & Miller, E.K. Child abuse and neglect: A framework for identification. *The School Counselor*, 1979, 26, 284-287.
- Moore, H.B., & McKee, J.E. Child abuse and neglect: The contemporary counselor in conflict. *The School Counselor*, 1979, 26, 288-292.
- Solomon, G. Child abuse and developmental disabilities. *Developmental Medicine and Child Neurology*, 1979, 21, 101-108.
- Swoba, J.S., Elwork, A., Sales, B.D., & Levine, D. Knowledge of and compliance with privileged communication and child-abuse-reporting laws. *Professional Psychology*, 1978, 9, 448-457.
- Volpe, R. The development and evaluation of a training program for school-based professionals dealing with child abuse. *Child Abuse and Neglect*, 1981, 5, 103-110.

Legal Issues in Child Abuse: Questions and Answers for Counselors

David N. Sandberg, Susan K. Crabbs, and Michael A. Crabbs

Editors' Note: David Sandberg is a researcher and practitioner of law relating to children's issues. His law practice includes representation of children in civil and criminal child abuse proceedings, termination of parental rights cases, delinquency petitions, guardianship cases, and divorce and custody cases. He is also a presiding judge in involuntary commitment proceedings. Before his training as an attorney, he was involved with children's issues from a mental health perspective as chairman of a state commission on children and youth, program director, and therapist.

We first contacted David Sandberg for information regarding his book, *Chronic Acting-Out Students and Child Abuse* (1987, Lexington Books). After two lengthy telephone conversations, he agreed to provide written answers to questions about child abuse issues for school counselors. A written interview was chosen to allow him an opportunity to research and accurately represent the legal issues.

ESC&C: *How would you generalize, across all 50 states, the school counselor's legal responsibility in reporting suspected abuse?*

D.S.: Virtually every state has a child abuse reporting law requiring school counselors and others to report suspected abuse. School counselors should insist that they have a very clear understanding of what their state law does and does not require. Given the extreme importance that state legislators have given to reporting laws as well as potential liability for nonreporting, I believe that school districts have an obligation to have legal counsel available so that

all school personnel understand and feel secure about the scope of their legal obligations.

ESC&C: *To what extent should counselors document their involvement and intervention with an abused child (e.g., photographs, audio recordings, anecdotal records, case notes)?*

D.S.: "Document" suggests an investigatory process. Keep in mind that child abuse statutes assign a reporting role to school counselors and an investigatory role to child protection services and, in some cases, to the police. This may sound pedantic, but it's a central and important premise of our child protection system. The counselor is reporting only a suspicion of abuse, not proof of abuse.

Consistent with this is the wisdom of counselors utilizing reasonable methods to document their suspicions of abuse. A foremost methodology is good note taking, (e.g., the date a suspicious black-and-blue mark was first noticed). Often, counseling explanations and dates relative to a child's injury emerge during a child protective services investigation, and it is very helpful if counselors can provide precise items and a sequence of events.

ESC&C: *In some states, school counselor interviews may benefit from a privileged communication statute. In what way does this help or hinder the counselor's reporting of suspected cases of child abuse? Do abuse-related laws supersede any privileged communication statutes?*

D.S.: Our legal system has historically protected several types of relationships deemed to be very important: doctor-patient, priest-penitent, and attorney-client. One layer of legal protection is confidentiality, which restricts or limits third parties from having access to important information arising within the context of these relationships. A second layer is the law of privileged communications, which acts as a bar to the professional being forced (or volunteering) to testify about a client's statements. Whereas the law of confidentiality is general and flexible, allowing for some exceptions, the law of privilege is specific and inflexible.

The basic policy consideration justifying the laws of confidentiality and privilege is simple: People are not apt to come forward with sensitive information, an essential prelude to problem resolution, if others are going to be told.

These laws worked well until the rise in public awareness of child abuse in the 1970s and 1980s. Society's concern has been so great that an exception has been made to both the law of confidentiality and privilege in many states. In New Hampshire where I practice law, the only privileged relationship the child abuse

reporting statute recognizes is attorney-client (please don't ask me to explain this exception). The clear import of the New Hampshire law is that if a penitent confesses abuse of his child to a priest, for example, the priest must make a report to child protective services.

In effect, society has made a value judgment that there is greater public good in protecting children against abuse than in guaranteeing confidentiality and privilege.

ESG&C: *Some counselors fail to report suspected abuse because of a fear of reprisal directed at the child. What do you suggest the counselor do when this is a real and immediate concern?*

D.S.: Again, I may come off sounding pedantic and a bit detached from the front lines, but my advice is to report because that is what the law requires. However, the reporter should stress to child protective services and the police, if need be, that there is a very real possibility of reprisal against the child.

Let me add that there is something troubling about not reporting a case of abuse due to fear of reprisal. In some cases, I suspect that the prospective reporters are more concerned about reprisals against themselves than the children involved. Also, an abused child lives in a world of violence, threats, and coercion, so it is difficult for me to see that a reprisal would constitute something new and different.

My intention here is not to make light of the reprisal concern. Instead, I am suggesting that there may be more to a reporter's hesitancy than meets the eye. No matter how the reprisal issue is looked at, the question of how the abuse is to terminate if a report is not made has to be answered. I know of no other way than through state intervention.

ESG&C: *For whatever reason a professional person (e.g., counselor, educator, mental health worker) might fail to report a suspected abuse, have you discovered any cases in which these individuals have been prosecuted?*

D.S.: I am aware of several cases, nationally, in which physicians have been criminally prosecuted for failure to report. No doubt there have been more cases, but, overall, it seems that states with failure-to-report statutes have seldom enforced them.

On the other hand, there has been a growing number of private (civil) suits for monetary damages brought on behalf of victims against mandated reporters who failed to report. In a California case, a failure-to-report suit was brought against four doctors and a police chief, and was eventually settled for \$600,000. The victim was a 3-year-old boy who suffered permanent brain damage after being beaten constantly by his mother's boyfriend.

ESG&C: *Most statutes contain a phrase about reporting "in good faith." Would you elaborate on this?*

D.S.: The "good faith" provision grants immunity from legal suit to reporters who file an abuse report in good faith. Such a provision protects just about everyone who reports except the person who did not have a reason to suspect child abuse and was principally motivated to report by a desire to attack someone. The policy consideration underlying good faith is that people who comply with a legislative command should not be vulnerable to suit.

ESG&C: *What are the investigatory responsibilities of a school counselor before reporting suspected abuse?*

D.S.: If we can agree that counselors basically report and that child protective services workers investigate, I can go on to say that counselors, in my opinion, have a duty to remain alert and make discreet inquiries in cases where there is little hard evidence but a strong feeling persists that abuse is occurring. Even more than this, anyone working with chronic problem children should have child abuse in mind as a possible contributory factor. This duty becomes distorted and trouble begins when a counselor progresses to a zealous crusade in the search for evidence.

In other cases where there is "reason to suspect" abuse or there is a "suspicion" of abuse, which inferentially implies some specific evidence such as a black-and-blue mark or behavioral indicators, there is no duty to investigate further. At this point, a report is compelled.

ESG&C: *At times, school counselors may be faced with principals, administrators, or district policy that demands proof of abuse before reporting. What advice would you provide to a counselor in this position?*

D.S.: First, I am concerned about any reporting protocol that has not been reviewed by an attorney with experience in the child abuse field. Second, a "demand proof" procedure suggests that mandated reporters must overcome a legal burden having to do with the requisite amount of evidence that is required before a report can be filed. I know of no child abuse reporting law which operates in this manner. Moreover, it is up to the child protective services, not to the school, to determine whether there is adequate evidence to warrant an investigation.

Frankly, I am worried about school personnel who are working in a "demand proof" atmosphere as they may be at risk for civil or even criminal liability. This should be sufficient motivation for them to take steps to correct the situation and protect themselves.

ESG&C: *In talking with counselors around the country, we have*

found that most will meet individually with a child prior to completing a report of abuse. First, is it appropriate for the counselor to make this contact? And second, if it is, what types of questions should be asked of the child?

D.S.: If the intent is to explain that a report is going to be made and to give the child a lot of support, I think that meeting with the child is a good idea, probably essential. If the intent is to learn more about the abuse, then I think that it depends upon several factors including the child's age and rapport with the counselor. In any event, filing a report is in no way pre-conditioned on the child acknowledging that abuse is occurring.

As for types of questions a child should be asked, I prefer a general question such as "Is there anything going on at home that bothers you?" As a general rule, this conveys caring, provides the child an opportunity to disclose, yet does not trap the child who is not ready to disclose. In cases where a counselor has developed a strong rapport with a child a more specific question about abuse is appropriate, provided there is some basis for asking the question.

ESG&C: *In many instances, other individuals on a school campus may become involved in the reporting of suspected abuse. As an example, the school nurse may take pictures of the injured child. Or, the school principal might request that the report proceed through the administrative office. In your opinion, when a counselor has information about an abused child, who within the school system has a "need to know" about the specific facts?*

D.S.: This varies from school to school, depending upon the size of a school and its organizational structure. I find it difficult to understand any system in which the principal, the child's primary teacher, and the counselor are not made aware that a report has been filed. As for specific facts about the abuse, I'm not sure that anyone other than the child's counselor needs to know.

ESG&C: *Newspapers and magazines have begun to report what appears to be an increase in the number of false reports of abuse. From your perspective, has the incidence of false reports increased over the years? If so, what factors do you believe have contributed to this?*

D.S.: By "false reports," I presume you are referring to cases where the report is fabricated rather than reported in good faith but no finding of abuse is made. Although the child protection system (which allows for reporters to remain anonymous) would seem ripe for misuse, I have no direct knowledge of someone using the reporting system for the sole purpose of "getting someone." I have not even read about such a case, although, surely, some exist.

Increasingly common are allegations of sexual abuse in divorce/custody disputes. Unquestionably, such an allegation can be a devastating weapon in these disputes, surpassing all others in terms of charged emotions. I have been in the middle of a number of these cases, usually as a guardian ad litem, but not one involved simple fabrication. What is going on is much more complex, involving the convergence of angry, hurt, and suspicious feelings of the custody litigants within the context of new public awareness about child abuse. In several of the cases in which I have been involved, I am satisfied that the children were never abused. I also believe that because of his/her extreme emotional condition, the parent making the accusation distorted things the child did or said but did not deliberately fabricate them.

So, if we want to call these false reports, yes, the number has increased and particularly in the divorce and custody context. The explanation for the increase would seem to be that most adults today have some general awareness of child abuse, some of its possible symptoms, and that it is a common phenomenon. If one divorcing spouse is enraged at the other and hears a child complain about an irritation "down there," today you are apt to hear a child abuse allegation. I would caution anyone about making general assumptions as to whether such allegations are "false reports." Each case must be looked at carefully without prior bias one way or the other.

ESG&C: *Counselors are frequently admonished to "err on the side of the child" when reporting suspected abuse. How might this contribute to false reporting?*

D.S.: Now I'm hearing "false report" more in the sense of unfounded cases following a good faith report. So, perhaps I should add a comment to the preceding question first. As a practicing attorney, I am only involved with more serious cases which are in court. From this perspective, I see very few cases where no judicial determination of abuse is made. But, keep in mind, I am only seeing the more serious cases.

As for "erring on the side of the child," such an approach is apt to result in more unfounded cases than if reporting is only done when there is a strong suspicion. The more cases that are reported, the more unfounded cases there will be. That's predictable.

But, I'm not particularly troubled by this because broad reporting will also result in detecting some serious abuse cases that otherwise would have continued. I realize that a broad approach also results, at times, in traumatic state intervention when no abuse exists. That is regrettable, but it is a price we necessarily have to

pay for protecting far more children who are being abused. Show me a better way. I'm willing to listen.

ESG&C: *To what extent should the counselor, who reports suspected abuse, be provided with periodic follow-up information by child protective services? What legal provisions exist to improve the communication between the service agency and the counselor?*

D.S.: This continues to be a major bone of contention between child protective services agencies and mandated reporters, especially professionals including educators. Typically, a teacher or counselor files a report and never hears back from child protective services concerning the investigation's outcome. When a call is made to child protective services, the response is that confidentiality prevents disclosure of the outcome.

This is crazy, and some states such as Maine have amended their child abuse statutes to allow child protective services personnel to disclose investigatory information to professional reporters. Even in states which do not expressly permit this, child protective services' claim of confidentiality may be more deeply rooted in self-protection than in law. Why disclose the outcome of an investigation to a school counselor who may tell the parent who, in turn, will probably swiftly launch an attack on the child protective agencies involved? It's an understandable reaction if you are looking at the world through the eyes of a child protection agency, but not good policy. People who are instrumental in a child's development, including professionals, must have all vital information about a particular child.

ESG&C: *What advice would you give counselors who might be called upon to testify in suspected abuse cases?*

D.S.: The best advice I can offer is to request that the administrators make school legal counsel available. After all, everyone else involved is represented by counsel. More than this, counsel can prepare counselors for their testimony, and can intercede if opposing counsel gets a little too aggressive.

ESG&C: *If all 50 states have a statute which requires mandatory reporting by any individual who has a suspicion of abuse, do school districts need a written policy on child abuse reporting procedures for their staff? If so, what are the essential ingredients of such a policy?*

D.S.: Given the extreme importance legislatures have given to child abuse reporting statutes, yes, school districts should have a written policy on reporting procedures. These procedures should be reviewed by legal counsel prior to being implemented. Counsel, in turn, may want to consult with one of the large, national child

abuse organizations such as the C. Henry Kempe National Center in Denver.

As for essential ingredients of reporting policy, let me suggest several. First, the policy must track with state statutory and any regulatory requirements. Second, there needs to be a direct chain from the person suspecting the abuse to child protective services (i.e., trouble increases as additional administrative layers are imposed between the person suspecting and child protective services). And third, a feedback loop between the school and child protective services and within the school is needed to maintain confidence in the reporting system.

Beyond this, I believe it is very important for schools to involve themselves with abused children in addition to just reporting. Abused children usually require special services and their educators must ensure that they receive them. If these children have a chance in this world, it is principally through meaningful educational opportunity.

ESG&C: *Since a significant part of the school counselor's role is consultation with school personnel and coordination of services to benefit children, it would seem that counselors have a responsibility to be directly involved in any attempts to write, revise, or implement a policy on child abuse reporting. What steps should a counselor follow in this process (i.e., meet with child protective services representatives and school attorney, inform/train teachers and other staff about the policy)?*

D.S.: I agree that school counselors can play a significant role in shaping good child abuse reporting procedures. Two of the more important things they can do is meet with school counsel to clarify any ambiguities in the procedures, and develop a good working relationship with a child protective services worker. Nothing is accomplished by being a child protective system "basher." Spend a day at the nearest child protection agency. I guarantee it will be an eye-opener.

ESG&C: *Based upon what you have seen happen in legal proceedings, what changes do you anticipate will occur in the reporting of suspected abuse cases over the next few years?*

D.S.: Well, some people contend that the present reporting system is not working because of child protective services case overloads and the impossibility of properly investigating all reported cases. Many child protective services agencies, it is suspected, screen-out or give low priority to reports having to do with maltreatment other than sexual abuse or serious physical abuse. As the argument goes, this de facto policy should be codified in the form of amended

reporting statutes, significantly narrowing the type of cases that would have to be reported.

I don't think there is much doubt that the child protective services system is overloaded. Workers are supposed to have 20 cases. Typically, they have 50 or more. But I have trouble concluding that the entire system is not working. That's to discount completely the hundreds of thousands of children who are protected against further abuse, not to mention the helpful services the children and their parents sometimes receive.

Neglect, psychological abuse, and even so-called minor physical abuse are all harmful to a child's development. Why should we as a society tolerate these forms of maltreatment? Under what rationale do we justify discontinuing protection and supportive services for these children? I strongly believe that our nation's first priority should be the healthy maturing and development of our young people. Call it idealistic, call it naive, but I am convinced that this is the only policy which offers any long-range hope insofar as significantly reducing crime, delinquency, and many of society's other more costly ills.

So, I am not sure what changes are likely to take place, but it looks like the central debate will focus on whether to narrow reportable conditions.

Child Abuse Hysteria and the Elementary School Counselor

Lawrence D. Spiegel

Across the country, helping professionals have failed to become accurately informed about the problem of child abuse and have been caught up in the public hysteria that surrounds this sensitive issue. Because investigations of alleged child abuse cases are besieged with complex yet subtle problems, helping professionals, especially school counselors, need to be well informed on this topic.

Personal Involvement

As a practicing clinical psychologist for more than a decade, I have worked with a fair share of abused children, as well as with adults who themselves had been abused as children. I knew the complexities, subtleties, and traumas inherent in the problem of abuse. What I was not aware of, however, was the developing trend of false accusations of abuse, especially those emanating from divorce and custody disputes. My initiation into the problems of false accusation was a novel one.

The story began the day I was arrested in the parking lot of my office in Morris County, New Jersey. That day, December 9, 1983, I was a successful clinical psychologist with a growing private practice. That afternoon, I was escorted to a waiting police car, charged with sexually molesting my then 2½-year-old daughter, handcuffed, and taken to police headquarters. Suddenly, my work, my dreams, my life—everything I had struggled for—were shattered. The confusion, disbelief, fear, and anguish I had experienced at that moment became an ongoing nightmare which continued for over two years. This

charge was filed by my ex-wife about 2 weeks after our divorce was finalized. (Spiegel, 1986, p. 1)

More than 2 years went by before I was able to clear my name and once again see my daughter, from whom I had been denied access for the entire time. Finally, after a series of court battles, which ended in the New Jersey Supreme Court, I was acquitted by a jury in January 1986. Yet the questions remained: How could such a thing have happened? What evidence existed to justify the charge? And what fueled the fires of those prosecutors who pursued the charges? It has taken well over 4 years for me to develop answers to these questions. During this process, I became more aware of the general trend of false accusations and the public hysteria about abuse. As a result, I set out to understand the genesis of both. The irony of my own situation, both as a psychologist and a victim of a false accusation, enabled me to develop a unique dual perspective, which I now seek to share in this article.

Recently, an identifiable set of behaviors was defined and described that could account for the epidemic rise in reports of child abuse (Spiegel, 1987). By enumerating the problems associated with overreporting and overreacting to alleged child abuse, in this article I challenge the validity of many child abuse cases. For those in the helping professions, especially those in the elementary school settings, an understanding of the hysteria that surrounds this issue is important, lest counselors allow themselves to become unwitting participants. My purpose in this article is to summarize the history of the current public hysteria while describing the child abuse phenomenon itself.

Overreaction and Bias

The trend of unusually high numbers of false reports of child abuse and neglect has skyrocketed. In 1976, approximately 35% of all reports of child maltreatment were determined to be unfounded (Besharov, 1985). In 1985, that number had swelled to 65%, involving approximately 750,000 children whose alleged abuse was reported without substantiation (Besharov, 1985). The tendency of both the lay and professional public to react overzealously has resulted in a host of new problems. These problems include good faith but overzealous reporting, professionals looking for abuse in otherwise innocuous behaviors, and parents using accusation of sexual abuse in divorce and custody proceedings (Spiegel, 1986).

Counselors have an obligation to be cognizant of each of these three problems and to develop strategies to deal with them. With a sensitive issue like child abuse, however, some counselors may overlook that most issues have two sides. Not surprisingly, some individuals who think of themselves as child advocates have been extremely susceptible to public pressure to do something about abuse. Consequently, school counselors' beliefs, opinions, and reactions must be carefully guarded to maintain objectivity while avoiding overzealous attempts to protect children, which do more harm than good.

The dangers of professional overreaction have not gone unnoticed in the literature. Schuman (1986) stated, "In some quarters there is such a degree of sensitivity or outrage about possible child abuse that a presumption exists that such abuse has occurred whenever it is alleged" (p. 1). Other articles call for therapeutic interviewing of alleged abuse victims, in an effort to guard against such bias. As an example, McIver (1986) quoted a mental health practitioner who concluded that, "most of the abuse professionals are not in touch with their real motives and are masquerading tyranny as charity" (p. 4).

Indeed, given the current climate and its historical evolution, counselors must consider themselves vulnerable to this bias. Within this context of public pressure, sensitivity, and hysteria came the mandatory and anonymous reporting laws that have a direct impact on a community in general and educators, including elementary school counselors, in particular.

The Climate of Hysteria

Fueling the current climate of hysteria are a variety of vehicles, none more insidious than sensationalized media accounts quoting government figures depicting an epidemic of child abuse (Dorschner, 1985). Communities have been barraged with attempts to heighten awareness through televised public service announcements, newspaper feature articles, pictures of missing children on milk cartons, and prime time television movies. These efforts have succeeded in generating a frenzied public response to do something about the problem. Other approaches designed to capture public interest include books and movies on such topics as good touches, bad touches (Freeman, 1986; Hart-Rossi, 1984), puppet shows (Chapman, Baird, & Kile, 1986), lectures, and even groups of traveling actors, all portraying the dangers of abuse.

A special feature article titled "Teaching Fear" appeared in *Newsweek* (Kantrowitz & Leslie, 1986) and provided documentation of the novel approaches to educating children and adults about child abuse. In addition to the flood of books and pamphlets, which include titles such as *It's Okay To Say No*, the *Newsweek* article also discusses some new offerings, which now include board games, *Safe City, USA*, and one developed by a former Illinois state prosecutor titled *Strangers and Dangers*. One of the most popular children's story writing teams, Stan and Jan Berenstain, have written a new book titled *The Berenstain Bears Learn About Strangers* (Berenstain & Berenstain, 1985). Although the titles don't always suggest it, the message goes far beyond the old adage, "don't talk to strangers."

Indeed, if figures compiled by the National Center on Child Abuse and Neglect (NCCAN) are accurate, the proliferation of this type of material may be justified. According to these official figures, the number of reports of child abuse have skyrocketed from 510,000 reports in 1972 to 1.3 million in 1982 (Besharov, 1985). Not surprisingly, this proliferation of literature has been interdisciplinary. From the abundance of legal articles that led to the 1974 Child Abuse Prevention and Treatment Act to the fields of social work, psychiatry, and psychology, the response has reflected the public climate. Each of these fields has seen the development of new theories and syndromes seeking to explain, diagnose, and treat child abuse in general and sexual abuse in particular.

Many writers in other disciplines have contributed a wide array of fundamental works on the topic of abuse that have come to form the backbone of the child-saver movement. Sgroi, Porter, and Blick (1982); Summit (1983); and White (1986) are just a few of the many authors developing theories that attempt to define syndromes of abused children. New tools such as anatomically correct dolls and other diagnostic aids are being touted as the cutting edge of the field. All of these professional attempts to address the issue of child abuse have been spurred by the public passion and, paradoxically, seem to contribute to it.

The Backlash

Perhaps the most telling sign that public reaction has reached epidemic proportions has been the abundance of "backlash" literature (Coleman, 1986; McIver, 1986; Schuman, 1984; Underwager, 1986). These works have sought not only to identify the

public hysteria but to point to the resulting problem of overreporting. Many of these authors cite the same government figures mentioned previously but add a crucial dimension: While the number of abuse reports has skyrocketed, so has the percentage of unfounded reports. Many believe this secondary problem, false reports, to be as damaging as abuse itself (Underwager, 1986).

Indeed, since the publication of the book, *A Question of Innocence: A True Story of False Accusation* (Spiegel, 1986), I have received a deluge of articles, court decisions, books, and research projects that document the tumultuous problem of overreporting of alleged child abuse. The attention this book has garnered has led to invitations to participate in conferences and symposiums conducted by the American Psychological Association, the American Medical Association, the American Academy of Psychiatry and Law, the American Association of Social Workers, and the Orthopsychiatry Association. Moreover, I have been called upon to testify in both civil and criminal cases of child abuse while consulting with literally hundreds of law firms across the country.

Again, the backlash literature has been interdisciplinary and equally vociferous. One legal expert, Besharov (1985), the first director of the NCCAN, reported that the percentage of unfounded reports increased 30% in one 10-year period (i.e., from 1975 to 1985). Some practicing attorneys (Gordon, 1985; Hertzog, 1986) have expressed vigorous concerns about the growing legal trend that has stretched the rules of evidence precariously thin. During the past 2 years there has been an explosion of articles on the problem of false reports. Social work specialists (Shultz, 1985) as well as psychological and psychiatric experts (Coleman, 1986; Green, 1986) have responded. Taken together, these articles have provided a myriad of warnings about the dangers facing the clinician through the epidemic of false reports.

Most of these experts have addressed specific problems arising from the recent modifications in court procedure. They have limited themselves, however, to points that only refute expert testimony from the state's witnesses. Some experts have attempted to neutralize evidence resulting from the use of anatomical tools. Each expert agrees that there must be more controlled studies and rigorous protocol developed before anatomical dolls can achieve credibility.

Coleman (1986) and Green (1986) have responded to abuse syndromes by methodically picking them apart and, in an effort to balance the issue, some experts have presented their own syndromes. A credible effort in this regard is the Sexual Allegations

in Divorce (SAID) Syndrome postulated by Blush and Ross (1987). Other authors (e.g., Benedek & Schetky, 1984; Schuman, 1986) have discussed even broader problems, including competency of children to testify and biased interviews by social workers and prosecutors. Many of these same issues are discussed in the False Accusation Syndrome that I developed (Spiegel, 1986). By far, the most comprehensive treatment of the problem of false accusation is the work by Underwager (1986). This author addresses all of the aforementioned areas and provides in-depth treatment of the problems of suggestibility, cognitive development, and interrogation.

The backlash phenomenon has not escaped the media's attention. Within the past 2 years, a grass roots organization, Victims of Child Abuse Laws (VOCAL), has garnered considerable press coverage. Composed of parents who believe they are victims of a witch-hunt mentality, VOCAL has more than 3,000 members nationally (Besharov, 1985). In the past year, virtually every network, newspaper, major magazine, and radio station in the United States has covered the problem of false accusations and referred to these false accusations as epidemic (Dorschner, 1985).

That the media have begun to report the backlash is further substantiation of the national hysteria. On a recent segment of *Donahue*, Phil Donahue characterized the attitude of hysteria prevalent in the audience with the statement, "show me a man who is accused of child abuse, and I'll show you a child abuser" (Harrell, 1987). News correspondent Bernard Goldberg (1987) summed up the paradox that society is facing. In his report on the *CBS Evening News with Dan Rather*, Goldberg commented that the efforts to do something about child abuse are "not only overdue, but overdone as well." The inherent paradox is that along with endangering innocent people, false reports also endanger children who need protection by misdirecting the resources of child protective services. In part, the very dissonance that this creates has heightened the hysteria.

The Child Abuse Hysteria Syndrome

Much of the backlash literature documents the climate of hysteria, or witch-hunt mentality that predominates. Yet, nowhere is this syndrome defined as a cohesive and comprehensive issue, as a condition unto itself. That is, even when it is accepted that such hysteria exists, an adequate explanation of how it affects the whole process of abuse investigation is lacking. Though the results are

clear—unwarranted intrusion into the family and possible conviction of innocent people—the problem itself is not.

It is this point that the child abuse hysteria syndrome (Spiegel, 1987) seeks to explain. To understand the uniqueness of the current phenomenon, it is necessary to integrate information from several different disciplines. This syndrome is composed of a three-stage process that draws from the fields of sociology and social psychology, cognitive psychology, and psychiatry. As a result of the exchange of information from each of these areas, there emerges a recognizable set of behaviors that explains the complex processes through which false reports of abuse are taken as fact by professionals and the public alike. The constructs from these disciplines explain the manner in which hysteria spreads, creating a contagion that predisposes both parents and children to misinterpret, misconstrue, and overreact, which results in false reports of abuse that might otherwise have been seen as innocuous behaviors.

Stage 1 of the child abuse hysteria syndrome involves an understanding of the constructs of collective behavior that have communicated and enabled overzealous attitudes toward abuse to become so widespread. These constructs include specifically the phenomena of congregated and uncongregated collective behavior, as well as groups psychology and the notion of mass hysteria (Brown, 1986).

In Stage 2, the cognitive capacities that make children so suggestible (Underwager, 1986) are exploited either consciously or unconsciously by the reporting adult, helping professionals, and investigators. The alleged child victim is often subjected to repeated interviews and interrogations by overzealous, and sometimes, poorly trained case workers. Throughout this process, the child, in effect, learns the story. These perceptions are then reinforced by a biased adult eager to find abuse and save the child.

In the third stage, a psychiatric disorder known as *folie a deux* (Kaplan & Kaplan, 1981) or shared paranoid disorder often develops. It is characterized by a symbiotic relationship of a dominant-submissive nature, in which the submissive partner takes on the ideas, delusions, and behavior of the dominant partner. For a child, such a relationship with a parent or other adult can easily develop, because children are normally submissive to adults. In addition, by unconsciously imitating the adults' behavior, the child seeks love and approval, two powerful reinforcers.

The results of this syndrome can be seen in the alarmingly high rate of false reports and irrevocable damage (Underwager, 1986) to hundreds of thousands of innocent people, adults and

children alike (Besharov, 1985). These false reports and subsequent investigations not only misdirect resources and ravage families, but they are the reason many children believe they have been abused when they have not. By setting the stage for the onset of psychosis for these children, helping professionals are confronted with a unique problem: Whereas many counselors have the training and skills to deal with the problems of a child who has been abused, how should counselors approach a child who believes the abuse has occurred when it has not?

The irony is that helping professionals, who want so much to assist children, become unwitting participants in this syndrome. Faced with mandated reporting laws in most states, a school counselor is often the first individual to hear a child's statement and complete the required report. Although well intentioned, counselors go too far in trying to provide support by encouraging the child to describe the situation. Therapeutic skills are used to reinforce what is expected, yet many counselors are naive regarding the effects of these interviews and diagnostic aids on children. Frequently, counselor observations are based on the misconception that children don't lie about abuse. Although it may be true that children rarely make up premediated lies, frequently they describe what they think the truth is. Many counselors have been taught to play it safe and err on the side of the child. Is the child being served, however, when the counselor unknowingly completes a false report? In my view, the false report can often be just as damaging to the child as an actual abuse situation.

Recommendations and Conclusions

Second only to parents, educators in general and school counselors specifically play a crucial role in protecting the health and well being of children. In addition to providing essential services to children, counselors are expected to manifest professional responsibility while being both knowledgeable and objective. Although it is often difficult to stay knowledgeable in so diverse a field, counselors must assume special responsibility to become aware of important societal issues. This professional mandate, to develop understanding as well as objective intervention strategies, must be directly communicated to parents, school administrators, and community leaders.

Counselors must be more discerning in their recommendations of guidance service programming for children. In the case of

abuse, a balance must occur between sensitizing children to the problem of abuse and avoiding the hysterical climate that exists today. Counselors need to study abuse program materials (e.g., books, kits, community-based lectures) to determine which ones exceed this balance and should be limited in their use. All materials designed to acquaint children with this issue must meet acceptable standards of objectivity.

Most of all, counselors must recognize the important pivotal role that they play during investigations of abuse. The first step is to be aware of the child abuse hysteria syndrome. Second, once a suspicion is reported, counselors must communicate with case workers and ensure that all involved parties are contacted. No longer can counselors simply file a report, excuse themselves of subsequent involvement, and assume that the investigation will be timely and complete. Third, school counselors need to keep in mind that child protective workers and members of law enforcement agencies may be overburdened, undertrained, and biased. Because suspicions are often turned into realities, counselors must establish criteria for what constitutes a suspicion as well as delineate steps for their own involvement in the investigation before reporting occurs. At a minimum counselors must impress on those caseworkers who take over the investigation their own doubts and concerns and urge those individuals to exercise caution in forming conclusions.

Counselors and educators must stay informed in this sensitive area by becoming familiar with the writings of the authors mentioned previously in this article. Most make very specific recommendations and suggestions that establish the "red flag" indicators for abuse as well as the false reporting of abuse. Avoiding bias and using appropriate interview techniques is a must in abuse situations. Recommendations regarding the initial interview, case referrals, and information safeguards (e.g., video or audio-tapes of interviews) must be considered and implemented as appropriate.

Ultimately, counselors must make a commitment to stay informed while avoiding the public hysteria on this issue. To do any less is to abdicate the primary responsibilities of a professional. No longer should counselor intervention be dictated by simplistic approaches like "err on the part of the child." Because the counselor's role as a helping professional dictates the standards that must be met, counselors cannot afford to err at all. Each must assume the personal and professional obligation to see that investigations are completed thoroughly and competently. This commitment—to intervene in an effective, objective manner to preserve the welfare

of the child—is the key for elementary school counselors to avoid the public hysteria surrounding child abuse.

References

- Benedek, E., & Schetky, D. (1984, October). *Allegation of sexual abuse in child custody cases*. Paper presented at the annual meeting of the American Academy of Psychiatry and the Law, Nassau, Bahamas.
- Berenstain, S., & Berenstain, J. (1985). *The Berenstain Bears learn about strangers*. New York: Random House.
- Besharov, D. (1985). Doing something about child abuse. *Harvard Journal of Law and Public Policy*, 8, 540-588.
- Blush, G.L., & Ross, K.L. (1987, March). *Sexual allegations in divorce: The SAID syndrome*. Detroit: Oakland County Bar Association.
- Brown, R. (1986). *Social psychology*. New York: Free Press.
- Chapman, D., Baird, K., & Kile, D. (1986). *BodyRights*. Circle Pines, MN: American Guidance Services.
- Child Abuse Prevention and Treatment Act, 42 U.S.C.
- Coleman, L. (1986, January/February). False allegations of child sexual abuse: Have the experts been caught with their pants down? *Forum*, 13(1), 12-22.
- Dorschner, J. (1985, July 25). A question of innocence. *Miami Herald*, pp. 10-15.
- Freeman, L. (1986). *Loving touches*. Seattle, WA: Parenting Press.
- Goldberg, B. (1987, February 23). *The CBS Evening News with Dan Rather* [Television program]. New York: Columbia Broadcasting Systems.
- Gordon, C. (1985). False allegations of abuse in child custody disputes. *Minnesota Family Law Journal*, 2(14), 225-228.
- Green, A. (1986). True and false allegations of sexual abuse in child custody disputes. *Journal of American Academy of Child Psychiatry*, 25, 449-456.
- Harrell, J. (Producer). (1987, March 17). *The Phil Donahue Show* [Television program]. New York: National Broadcasting Company.
- Hart-Rossi, J. (1984). *Protect your child from sexual abuse*. Seattle, WA: Parenting Press.
- Hertzog, P. (1986, May). *Some important aspects of pre-trial investigations and motions*. Paper presented to North Carolina Academy of Trial Lawyers Seminar, Fayetteville.
- Kantrowitz, B., & Leslie, C. (1986, March). Teaching fear. *Newsweek*, p. 14.
- Kaplan, S.L., & Kaplan, S.J. (1981). The child's accusation of sexual abuse during a divorce and custody struggle. *The Hillside Journal of Clinical Psychiatry*, 3(1), 92-93.
- McIver, W. (1986). The case for a therapeutic interview. *The Oregon Defense Attorney*, 6(4), 3-4.
- Schuman, D. (1984, October). *False accusations of physical and sexual abuse*. Paper presented at the annual conference of the American Academy of Psychiatry and the Law, Nassau, Bahamas.

- Schuman, D.C. (1986). *Psychiatric and psychological evidence*. Colorado Springs, CO: McGraw-Hill.
- Sgroi, S.M., Porter, F., & Blick, L. (1982). *Handbook of clinical intervention in child sexual abuse*. Lexington, MA: Lexington Books.
- Shultz, L. (1985, November). *The social worker and the sexually abused minor, where are we going?* Paper presented to the National Victims of Child Abuse Laws conference, St. Paul, MN.
- Spiegel, L.D. (1986). *A question of innocence: A true story of false accusation*. Parsippany, NJ: Unicorn Publishing.
- Spiegel, L.D. (1987). *The phenomenon of child abuse hysteria as a social syndrome*. Unpublished manuscript.
- Summit, R. (1983). The child sexual abuse accommodation syndrome. *Child Abuse and Neglect*, 7, 177-193.
- Underwager, R. (1986). *Child sexual abuse*. Unpublished manuscript.
- White, S. (1986, August). *Mental health evaluators' role in child sexual abuse assessments*. Paper presented to the American Psychological Association, Washington, DC.

Overstating the Issue: A Reaction to Spiegel

Richard D. Krugman

The article written by Spiegel cautions elementary school counselors to be "well informed" and "to avoid the public hysteria surrounding child abuse" (Spiegel, 1988, p. 282). Unfortunately, his article is filled with serious inaccuracies and, for the most part, seems to be a follow-up to his own book (Spiegel, 1986) in which he stated he was wrongly accused of sexually abusing his child. Before elementary school counselors follow Spiegel's recommendations and advice, careful consideration should be given to the following points.

Unfounded Versus False Reports

The linking of unfounded reports to false reports is misleading and inaccurate. In my experience, departments of social services conclude that some reported cases of child abuse are unfounded for a variety of reasons. One of those reasons is that adequate data on which to make a decision are unavailable (the most common reason why reported cases end up unfounded [Jones, 1987]). Additionally, cases may become unfounded when a child has symptoms that are initially suggestive of sexual abuse but turn out later to be symptoms that can be attributed to something else (i.e., similar to a negative throat culture for a child with a sore throat).

Finally, a report may be unfounded because it is a fictitious report. These may arise from either an adult or a child. In Jones's (1987) study, published in the *Journal of Interpersonal Violence*, he established that the majority of reports that were unfounded were deemed so because of inadequate data. Of the 576 cases of sexual abuse in Denver involved in this analysis, 34 (8%) were fictitious or false, with 26 (4.5%) cases judged to be clearly false

reports by adults. Only 8 (1.5%) of these 576 cases were fictitious reports made by a child. Because elementary school counselors most often hear allegations of sexual abuse from children, this very low incidence of false reports by children should be considered.

The Backlash

Counselors should be cautious in accepting Spiegel's references to "backlash" (Spiegel, 1988, p. 278) literature. For the most part, the citations do not come from peer-reviewed journals, and those that are reported are generally single case reports. None provide any type of adequately controlled prospective study to address the problem he says exists.

Further caution should be employed in accepting Spiegel's allegations that "the media have begun to report the backlash" (p. 279) and that it is evidence of a "national hysteria" (p. 279). In my opinion, the media attention that presently exists is just as likely to have resulted from a concerted effort by Victims of Child Abuse Laws (VOCAL) to draw such attention to its own particular problem. Studies completed by the Association of Family Court Counselors (N. Theonnes, personal communication, November 2, 1987) have indicated that the prevalence of false reporting of child sexual abuse in custody disputes is only 10% of all cases. Again, a staggeringly small statistic compared with what Spiegel and VOCAL would have counselors believe.

A Question of Innocence

Personally, I would be more accepting of Spiegel's innocence and the VOCAL members' allegations that they have been wronged if each would open up his or her entire social service and civil court records to public scrutiny. In my own experience of dealing with a number of cases in which members of VOCAL have claimed that they have been wronged, this perception has arisen because a juvenile court found enough evidence to order them into treatment for sexually abusing their children, although the criminal court was unable to prove beyond a reasonable doubt that they were guilty.

The criminal justice system requires a much higher standard of proof as to guilt or innocence than does the juvenile system,

which itself requires only a preponderance of evidence. A judgment of not guilty in a criminal court does not mean innocent; this may merely mean that evidence to prove guilt beyond a reasonable doubt was lacking. Contrastingly, evidence in juvenile court is kept confidential, to protect the child (and, paradoxically, to protect the abusive adult). Requiring only a preponderance of evidence, these courts may order that visitation rights be suspended until evaluations and treatment occur to ensure the child's safety. This is not backlash, this is not hysteria, and this is not a violation of the adult's constitutional rights. It is an effort to protect children and gather data in a manner that would be appropriate to ensure the continued protection of the child, as well as the institution of treatment for the family.

Education and Training

Without a doubt, there is a need for continued education and better training for child protective and law enforcement workers, judges, physicians, teachers, and all those involved in a multidisciplinary approach to the prevention and treatment of child abuse and neglect. Elementary school counselors should act as any citizen to ensure that the present system that has been set up to protect children is adequately funded and supported. To label the problems that 3,000 members of VOCAL have called *child abuse hysteria* as epidemic would be greatly overstating the issue. These members of VOCAL, who feel as if they have been falsely accused, do not represent a very large number of complainants when all reports are considered. In the 3- to 4-year period in which VOCAL has been established, there have been well over 4 million reports of child abuse and neglect (American Humane Society, 1987). These reports have overwhelmed child protective service agencies and their staffs. To ignore the fact that the child protective service system is stressed and needs help would also be a great mistake. To change policy because of this so-called "hysteria epidemic," however, would also be a great mistake.

References

- American Humane Association (1987). *National study on the incidence of child abuse and neglect*. Denver, CO: Author.

- Jones, D. (1987). Reliable and fictitious accounts of sexual abuse to children. *Journal of Interpersonal Violence*, 2(1), 27-45.
- Spiegel, L. D. (1986). *A question of innocence: A true story of false accusation*. Parsippany, NJ: Unicorn Publishing.
- Spiegel, L. D. (1988). Child abuse hysteria and the elementary school counselor. *Elementary School Guidance & Counseling*, 22, 275-283.

Counselors Need To Be Knowledgeable and Sensitive: A Reaction to Spiegel

Patricia A. Ferris

Two major points have been made by Spiegel (1988) in his article: (a) elementary school counselors must be knowledgeable about the child abuse hysteria syndrome, and (b) an objective process is needed to assist counselors in handling such cases. In my opinion, few elementary school counselors possess sufficient education and understanding regarding the child abuse hysteria syndrome that Spiegel described. Moreover, Spiegel's suggestion that there is a need for further research and clarification of the present knowledge base seems to be sound.

Without doubt, some counselors may become involved with children who believe abuse has taken place when, in fact, it has not. Contrary to what Spiegel may believe, such reports that turn out to be false are not intentional fabrications. Instead, counselors act based upon what they believe to be correct information with the full intent to protect the child in a difficult situation. Yet, I do agree that counselors need to be able to recognize the hysteric reactions Spiegel describes and develop ways to counsel with children who are reacting to this syndrome.

Spiegel has presented an excellent rationale for school counselors to explore, in greater depth, problems associated with false reporting. To date, counselors have neglected this issue while becoming familiar with abuse reporting procedures and the general implementation of state laws of child abuse. Although counselors around the United States continue to improve their skills through participation in workshops and professional reading, an emphasis on the hysteria syndrome described by Spiegel must be included in in-service training experiences and journal articles.

In 1981, the American School Counselor Association (ASCA) adopted a position statement titled, "The School Counselor and Child Abuse/Neglect Prevention," which was revised in 1985 (see Appendix F for a reprint of this statement). It should be noted that this document fails to contain any reference to false reporting or the need for counselors to be cognizant of the child abuse hysteria syndrome. Because false reporting and the child abuse hysteria syndrome are important issues, ASCA must assume leadership and provide information to its members and update the position statement. Certainly, counselors need a better understanding of the syndrome and its characteristics, which will assist them in its identification. All school counselors must guard against a situation that could lead to false reporting. As Spiegel recommended, counselors will need to ensure that a balance is achieved in prevention programs that sensitize children to abuse issues without creating hysteria or fear.

Closely related to the issue of false reports presented by Spiegel, yet somewhat different, is the effect that the reporting law itself has on the counselor's attitude of responsibility in any type of child abuse case. One might ask, "Is the law that requires counselors to report child abuse used as an excuse for abdicating professional responsibility to provide services to these children?" No doubt the answer to the question could be yes in some instances.

It is not unusual to find professionals at all levels who dread the interaction with an abused child and the adult suspected of the abuse. Some counselors may be fearful of the adult and the problems that such an accusation could cause; perhaps they may not want to discuss a topic that society has labeled taboo; or the counselor may feel inadequate in terms of knowledge and experience in dealing with such cases. I agree with Spiegel that, in some situations, helping professionals, including counselors, may act without awareness of their own motivation to avoid this confrontation. A counselor who relies on child protective agencies may not realize the shortsightedness of this decision and the damage that may be done to adults and children alike. Ideally, in cases where no actual proof of abuse exists, or if there are strong doubts, the counselor would decide to clarify the situation through face-to-face contact with the parents.

Without question, the professional counselor must develop adequate techniques to interview the child and parents, establish criteria to judge situations, suggest a specific process for reporting all information objectively, and develop follow-up methods to en-

sure that all parties are contacted in a timely and appropriate manner. Counselors must be encouraged to approach complicated abuse situations with well-grounded knowledge and skills if the incidence of false reporting is to be avoided.

Reference

- Spiegel, L.D. (1988). Child abuse hysteria and the elementary school counselor. *Elementary School Guidance & Counseling*, 22, 275-283.

Shared Responsibility for Reporting Child Abuse Cases: A Reaction to Spiegel

Janet Howell-Nigrelli

Awareness, knowledge, commitment, and effective communication skills are important attributes that school counselors must have when confronted with a suspected case of child abuse. Counselors, however, should also realize that within an educational setting, the reporting of child abuse is a responsibility that is shared with the counselor's school district. On the one hand, the individual counselor must be accurately informed about the applicable state laws and reporting procedures. On the other hand, the school district must provide a written policy for counselors and other employees of the district to follow when abuse is suspected.

In many instances the school counselor may be the designated agent for reporting cases of suspected abuse. Failure to report one's suspicions may lead to subsequent prosecution under state law. In Pennsylvania, where I am an elementary school counselor, this is the case. My school district, however, attempts to minimize inappropriate reports through a team effort. Counselors should consider forming teams of 3 or 4 members of the school community to review suspected situations of child abuse. Meetings must be held in a timely manner, which would enable the counselor, or other designated reporter, to contact the local child protective services as soon as possible. This procedure enables the counselor to review the evidence that has been gathered from a child or adult and clarify any discrepancies with other professional educators before a report is filed. Instead of abrogating responsibility, the process ensures that the report that is filed will be accurate and factual, containing all the accumulated information. I believe the team approach that my counseling department uses also keeps members

of the department from becoming unwitting participants in the hysteria surrounding this issue.

Additionally, a team effort has been used in my school district to approach the prevention-awareness issue of abuse with teachers and students. After we on the counseling staff review abuse prevention materials, we discuss their contents as well as student needs with individual teachers or grade level teams. These needs are then shared with local community mental health agencies to involve them in the accurate representation of facts and knowledge to the students. A strong commitment to open communication between school and community professionals has resulted in a greater awareness of child abuse.

In summary, elementary school counselors need to be aware and knowledgeable of issues surrounding child abuse. Furthermore, it is imperative that each counselor has a commitment to report any and all cases of suspected child abuse. Counselors, however, must share this commitment and communicate their needs to the school districts and communities in which they work. The responsibility for accurately reporting cases of child abuse must be shared by all of society.

Recent Research on Child Abuse: A Brief Review

Edwin R. Gerler, Jr.

Child abuse and neglect are major problems throughout the world. In the United States, elementary school counselors are at the forefront of efforts to improve understanding of child abuse and to develop educational programs aimed at preventing and treating child abuse (Downing, 1982; Holtgraves, 1986). The purpose of this brief article is to review some important recent studies showing the harmful effects of child abuse as well as the beneficial effects of educational programs designed to deal with abuse. Elementary school counselors may gain valuable insights about the problem of abuse from recent research.

The Effects of Child Abuse

Child's Perspective of Self and Others

A study by Ney, Moore, McPhee, and Trought (1986) of the child's perspective on abuse resulted in some interesting findings about how children perceive abuse. Using an 84-question structured interview, the researcher asked 57 abused children (ages 5-13) about their perceptions of abuse, views of family, self-concepts, and world views. Mothers of the children also participated in interviews.

The study found that children's perceptions were affected in differing degrees depending on the nature of the abuse. Physically abused children, for example, accepted the blame for mild abuse but not for severe abuse. Also, verbal and sexual abuse seemed to have a larger negative influence on children's perceptions of themselves and the world than did physical abuse. The overall findings of the study, though limited by the problems of small sample size

and self-report data, supported the clinical and experimental findings of other researchers, namely, that abused children tend to blame themselves, but the extent of blame is mediated by the type and extent of abuse.

Developmental Effects

Among the most important recent studies on the subject of child abuse was Augoustinos's (1987) review of research findings on developmental effects of abuse. Her review included a summary of pre-1982 research on developmental effects of abuse as well as a careful examination of more recent reviews. Her conclusion was that the research is fraught with definitional and methodological problems, but that, despite these problems of methodology, "there is sufficient empirical evidence to support the widely held assumption that child abuse and neglect have deleterious effects on the physical, neurological, intellectual, and emotional development of the child" (Augoustinos, 1987, p. 15).

She found further, however, that healthy development may occur regardless of maltreatment provided the child is surrounded by strong environmental resources and positive interpersonal interactions.

Research on Child Abuse Programs

Effects of Preventive Programs

Researchers have met with little success in documenting effective programs for preventing child abuse. As Garbarino (1986) noted, measuring the success of preventive programs is a problem of major proportions. The development of preventive programs is equally difficult.

The most successful preventive approach seems to be the health visitor program studied by Olds, Chamberlin, Henderson, and Tatelbaum (in press). Their rigorous study showed that a registered nurse assigned to a family judged to be at high risk for abuse resulted in significant preventive effects. The nurse visited the high-risk mother weekly during pregnancy and visited the family at least monthly for the first 2 years of the child's life. It is clear from the health visitor study that preventive strategies often need to be intensive and highly individualized. Evidence is not yet as

clear on the effectiveness of educational programs for groups of potentially abusive parents. Many more group programs need to be developed and studied.

Effects of Preventive Group Programs

A parent education program developed and studied by Golub, Espinosa, Damon, and Card (1987) for groups of abusive parents offers the hope that preventive group programs are within reach. This program, titled "Hugs 'n Kids," incorporates videotapes of 13 episodes depicting typical problem situations between parents and their preschool children. Golub et al. studied 40 parents who participated in pretests and posttests to assess the program's effects. Results indicated that abusive parents and high-risk parents who completed the program had improved their knowledge of alternatives to physical punishment and had changed their attitudes toward children's misbehavior.

Implications for Elementary School Counselors

The current research indicates that abuse has deleterious effects on the self-image of children and often blocks healthy physical and psychological development. Elementary school counselors, therefore, need, first of all, to be advocates for those children who have experienced abuse and, perhaps more importantly, need to be advocates for programs, such as the nurse visitor program, that show promise in preventing high-risk parents from becoming abusive.

Moreover, elementary school counselors should be at the forefront in advocating and developing group programs aimed at preventing abusive behaviors among parents identified as potentially abusive. Interventions like the "Hugs 'n Kids" videotape program are models for elementary school counselors to follow as they develop their own programs. Counselors interested in more information about the "Hugs 'n Kids" program should contact Dr. Judith S. Golub, San Fernando Valley Child Guidance Clinic, 9650 Zelzah Ave., Northridge, CA 91325.

Finally, elementary school counselors need to be attentive to the special needs of children who have been mistreated. In some instances, counselors may need to work with these children individually or in small groups. Some other children, of course, will need to be referred for intensive treatment.

In conclusion, elementary school counselors who have worked with abused children are well aware that preventive programs are much needed. Research supports this need. Counselors should continue to advocate and work toward the implementation of effective treatment programs for abused children as well as the implementation of promising programs of child abuse prevention.

References

- Augoustinos, M. (1987). Developmental effects of child abuse: Recent findings. *Child Abuse and Neglect*, 11, 15-27.
- Downing, C. J. (1982). Parent support groups to prevent child abuse. *Elementary School Guidance & Counseling*, 17, 119-124.
- Garbarino, J. (1986). Can we measure success in preventing child abuse? Issues in policy, programming and research. *Child Abuse and Neglect*, 10, 143-156.
- Golub, J. S., Espinosa, M., Damon, L., & Card, J. (1987). A videotape parent education program for abusive parents. *Child Abuse and Neglect*, 11, 255-265.
- Holtgraves, M. (1986). Help the victims of sexual abuse help themselves. *Elementary School Guidance & Counseling*, 21, 155-159.
- Olds, D., Chamberlin, R., Henderson, C., & Tatelbaum, R. (in press). The prevention of child abuse and neglect: A randomized trial of nurse home visitation. *Pediatrics*.

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